



ZONING BOARD OF APPEALS

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ZBA 2009-84

Petition of Bing Hou & Gwen Zhang
19 Roberts Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, December 10, 2009, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of BING HOU & GWEN ZHANG requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 24 foot by 32 foot two-story addition that will meet all setback requirements, on an existing nonconforming lot with less than required frontage, at 19 ROBERTS ROAD, in a 20,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 23, 2009 the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Bing Hou and Gwen Zhang (the "Petitioner"), who said that their lot does not have enough frontage. Mr. Hou said that their land sits behind the neighbors. He said that access to the property is from the driveway. He said that the driveway is 55 feet wide, which is short of the 60 feet that is required for frontage.

The Board said that there are nine abutters to the property. The Board said that it is a pork chop lot.

The Board asked about the total square footage of the house after the addition is constructed. The Board said that Drawing 5 of 7 states that the Total Living Area Including Garage (TLAG) will be 4,791 square feet. The Board said that the threshold for Large House Review (LHR) is 5,900 square feet in a 20,000 square foot Single Residence District.

Christina DeCastro, 11 Roberts Road, said that her property backs up to the front of 19 Roberts Road. She said that when a basement and the two floors are added together, the TLAG figure that she came up with is 5,022 square feet.

Ms. DeCastro said that she did not think that the Petitioners have shown that there is a substantial hardship here. She said that she had pictures that were taken from her property. She said that an addition of the proposed size would be detrimental to the property value of her house. She submitted pictures to the Board.

Ms. DeCastro said that there seems to be a problem with the survey. She said that her survey does not line up with this one. She said that the survey shows 1 inch equals 50 feet but that does not seem

consistent throughout the survey. She said that there is one point on her property that is 46 feet from the property marker to the border of the property in question. She said that dimension is shown as almost 1.5 inches on the survey. The Board reviewed the dimensions on the plot plan and said that the dimensions of the Hou/Zhang property seem to check out on the survey.

Ms. DeCastro said that the proposed addition will be substantially more detrimental to her property. She said that the front of the house is right at the back of her lot. She said that the way that the side lines have been designated does not seem proper, according to the definition in the bylaw. She said that the side yard should go from the front to the back of the property. She said that what is down on the driveway is irrelevant to the setbacks of the house. She said that to allow someone to have their front entrance be considered the side of the house does not follow the intent of the law to protect neighbors on setbacks. The Board said that there are other houses in town that have a front door facing a side lot line.

Ms. DeCastro said that the intent of the bylaw is to protect the neighbors with what is commonly considered a side yard. She said that in instances where there is the entrance of the house facing a side lot line, it should not be allowed to be expanded along the side lot line.

The Board asked what there is in the way of screening. Ms. DeCastro said that there are three Blue Spruce trees that she planted. She said that there is a chain link fence that is on her property.

Ms. DeCastro said that 19 Roberts Road is the second largest house on the road. She said that most of the houses on Roberts Road have 3 bedrooms and 1.5 baths. She said that the addition that is proposed is larger than many of the houses on Roberts Road. She submitted photographs of houses on Roberts Road to the Board.

Ms. DeCastro said that to add an addition that is taller than the main portion of the house will decrease her light and view and would loom over her property and substantially decrease the value of her property. She said that doubling the size of the house undermines the value of her property.

Ms. DeCastro said that there was a swimming pool there when the house was built. She said that was filled with construction debris, including the pool slide. She said that is located under the area where the Petitioner will be excavating to pour a foundation.

Ms. DeCastro said that this is a unique lot and it has a number of abutters. She said that it would be detrimental to the neighborhood to allow the size of the structure to be doubled. She said that it will be two to three times larger than any house on Roberts Road. She said that it will take up the entire center of the block. The Board said that this house would not trigger LHR.

Ms. DeCastro said that, by definition, open space calculates in the driveway. She said that a large portion of this property is driveway. She said that combined with the square footage of the structure makes for very little open space on the property. The Board said that there is a lot coverage requirement but that is limited to buildings.

Ms. DeCastro said that the driveway goes over Cold Spring Brook. She said that portion of the property is in the Watershed District.

Ms. DeCastro said that the existing structure does not have a full basement. She said that houses in the surrounding area have flooded. She said that putting in a 700 square foot basement is likely to change the water flow into the neighbors' basements.

Mr. Hou said that his is not the largest house on Roberts Road. He said that two other houses have just added significant additions.

Mr. Hou said that they will have to excavate to see if building a basement will be possible. He said that if they encounter anything that will prevent them from putting in a basement, they will just build a slab.

Ms. Zhang said that there are trees all around their property.

Ms. DeCastro said that she had the Fiscal 2008 Tax Assessments for all of the houses on Roberts Road. She said that the largest house is just over 3,000 square feet. She said that it was recently remodeled but that was less than 500 square feet larger than the existing home. She said that the proposed addition will be 1,500 square feet, which will bring the square footage to over 4,000 square feet. She said that most of the houses on Roberts Road are less than 2,000 square feet.

The Board said that it is required to consider whether or not what is being proposed is in keeping with the character of the neighborhood, and whether it will increase the bulk and the mass to the extent that it could be detrimental to the neighborhood.

Marilyn Morgan, 17 Roberts Road, said that she had no issue with the proposal. She said that she had a survey done of her property about a year ago. She said that the survey showed that she owns a section of land right next to the driveway. She said that the Petitioner's survey shows that they own that section of land. She said that it would be helpful for the future to have another survey done to clarify the situation. She said that she just spent \$800 to put down new mulch because she thought it was her property. The Board said that bounds are shown on the plot plan that was submitted by the Petitioner.

The Board said that the proposal is to add approximately 700 square feet of runoff because of the new roof. Mr. Hou said that there will be downspouts to the ground. The Board said that there appears to be sufficient area to put in drywells.

The Board said that the Petitioner should consider planting trees that provide reasonable year round screening along the property boundaries with the neighbors who will be most affected by the addition. The Board said that there will be no exterior lighting allowed.

The Board said that it is typical in Wellesley that lots back up to each other, although this is a bit of an anomaly in that a back yard backs up to the front of a house. The Board said that the house at 11 Roberts has a 163 foot setback from the rear lot line, which is a significant buffer.

The Board said that the surveyor should research the boundary between the Petitioner's property and the neighbor's property at 17 Roberts Road.

Statement of Facts

The subject property is located at 19 Roberts Road, in a 20,000 square foot Single Residence District, with a minimum frontage of 55 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 24 foot by 32 foot two-story addition that will meet all setback requirements, on an existing nonconforming lot with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/13/09, stamped by George C. Collins, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 8/5/09, drawn by RAV & Associates, Inc., and photographs were submitted.

On December 8, 2009, the Planning Board reviewed the petition and recommended that the petition be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that construction of a 24 foot by 32 foot two-story addition that will meet all setback requirements, on an existing nonconforming lot with less than required frontage shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing for construction of a 24 foot by 32 foot two-story addition, subject to the following conditions:

1. Drywells of sufficient size shall be installed to take all runoff from the roof of the new addition.
2. Buffer plantings shall be planted near the property boundary that is reasonable to provide year round screening of the new addition from 9 & 11 Roberts Road and 10 Sprague Street.
3. There shall be no exterior lighting.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Cynthia S. Hibbard, Acting Chairman

Robert W. Levy

David G. Sheffield

cc: Planning Board
Inspector of Buildings
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